



COMPLIANCE REVIEW REPORT

OFFICE OF INSPECTOR GENERAL

Compliance Review Unit
State Personnel Board
January 28, 2019

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INTRODUCTION

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and Board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Effective July 1, 2012, the Governor's Reorganization Plan Number One (GRP1) of 2011 consolidated all of the functions of the Department of Personnel Administration and the merit-related operational functions of the State Personnel Board (SPB) into the California Department of Human Resources (CalHR).

Pursuant to Government Code section 18502(c), CalHR and SPB may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." CalHR and SPB, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Office of Inspector General (OIG)'s personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contract	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Mandated Training Complied with Statutory Requirements
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

¹ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

Area	Finding
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	715 Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisal Policy and Processes Did Not Comply with Civil Service Laws and Regulations and CalHR Policies and Guidelines

A color-coded system is used to identify the severity of the violations as follows:

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance

BACKGROUND

The OIG is an independent state agency, statutorily tasked with providing public oversight of certain operations of the California Department of Corrections and Rehabilitation (CDCR). The OIG’s responsibilities include: providing contemporaneous oversight of the CDCR’s internal affairs investigations and any resulting disciplinary proceedings, reviewing staff use-of-force, performing medical inspections of the health care provided at each of the state’s 35 adult institutions, vetting the qualifications of the Governor’s candidates for appointment to serve as Wardens, performing reviews as requested by the Governor or Legislature, and other various functions.

The OIG maintains three regional offices in Sacramento, Bakersfield, and Rancho Cucamonga, and employs approximately 120 staff - the majority of which are located in the OIG’s Sacramento headquarters.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the OIG's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes². The primary objective of the review was to determine if OIG's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the OIG's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the OIG provided, which included examination plans, examination bulletins, job analyses, and scoring results. The OIG did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the OIG's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the OIG provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The OIG did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the OIG did not make any additional appointments during the compliance review period.

The OIG's appointments were also selected for review to ensure the OIG applied salary regulations accurately and correctly processed employee's compensation and pay. The CRU examined the documentation that the OIG provided, which included employee's employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: hiring above minimum (HAM) requests, bilingual pay, monthly pay differentials, and out-of-class assignments. During the compliance review period, the OIG did not issue any red circle rate requests, arduous pay.

² Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

The review of the OIG's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

The OIG's PSC's were also reviewed.³ It was beyond the scope of the compliance review to make conclusions as to whether the OIG's justifications for the contracts were legally sufficient. The review was limited to whether the OIG's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The OIG's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors were provided supervisory and sexual harassment prevention training within statutory timelines.

The CRU also identified the OIG's employees whose current annual leave, or vacation leave credits, exceeded established limits. The CRU reviewed a cross-section of these identified employees to ensure that employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Additionally, the CRU asked the OIG to provide a copy of their leave reduction policy.

The CRU reviewed the OIG's Leave Activity and Correction certification forms to verify that the OIG created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected a small cross-section of the OIG's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the OIG's employee's employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the OIG's employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Additionally, the OIG did not track any temporary intermittent employees by actual time worked during the compliance review period.

³If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

Moreover, the CRU reviewed the OIG's policies and processes concerning nepotism, workers' compensation and performance appraisals. The review was limited to whether the OIG's policies and processes adhered to procedural requirements.

On December 19, 2018, an exit conference was held with the OIG to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the OIG's written response on January 16, 2019, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931.) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) the advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application in the office of the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934.) Generally, the final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, June 1, 2017 through February 28, 2018, the OIG conducted two examinations. The CRU reviewed both of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Deputy Inspector General	Open	Qualification Appraisal Panel ⁴	12/29/2017	27
Special Assistant Inspector General	Open	Qualification Appraisal Panel ⁵	Continuous	4

FINDING NO. 1 – Examinations Complied with Civil Service Laws and Board Rules

The CRU reviewed two open examinations which the OIG administered in order to create eligible lists from which to make appointments. The OIG published and distributed examination bulletins containing the required information for all examinations. Applications received by the OIG were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the OIG conducted during the compliance review period.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual’s job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

⁴ The Qualification Appraisal Panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

⁵ The Qualification Appraisal Panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

During the period under review, June 1, 2017 through February 28, 2018, the OIG made 20 appointments. The CRU reviewed 11 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full-Time	1
Chief Physician & Surgeon CF	Certification List	Permanent	Full-Time	1
Special Assistant Inspector General	Certification List	Permanent	Full-Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full-Time	1
Associate Deputy Inspector General	Transfer	Permanent	Full-Time	1
Deputy Inspector General	Transfer	Permanent	Full-Time	1
Registered Nurse, CF	Transfer	Permanent	Full-Time	4
Staff Services Analyst	Transfer	Permanent	Full-Time	1

FINDING NO. 2 – Appointments Complied with Civil Service Laws and Board Rules

The OIG measured each applicant’s ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the four list appointments reviewed, the OIG ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed seven of OIG’s appointments made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Regs., tit. 2, § 425.) The OIG verified the eligibility of each candidate to their appointed class.

The CRU found no deficiencies in the appointments that the OIG initiated during the compliance review period. Accordingly, the CRU found that the OIG’s appointments

processes and procedures utilized during the compliance review period satisfied civil service laws and Board rules.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the California Department of Human Resources by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the Director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.)

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation from the regular chain of command, as well as regular and unencumbered access to the head of the organization.

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

FINDING NO. 3 – Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the OIG EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Inspector General of the OIG. In addition, the OIG has an

established DAC which reports to the Inspector General on issues affecting persons with disabilities. The OIG also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities, and to offer upward mobility opportunities for its entry-level staff. Accordingly, the OIG EEO program complied with civil service laws and Board rules.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC’s, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, June 1, 2017 through February 28, 2018, the OIG had four PSC’s that were in effect. The CRU reviewed all four PSC’s, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Broadway Auto Service	Service/Maintenance	10/1/16 - 6/30/18	\$49,999.99	Yes
Kronick Moskovitz Tiederman & Girard	Legal Consultant	9/30/16 - 6/30/18	\$54,290.00	Yes
R&R Automotive	Service/Maintenance	7/1/17 - 6/30/19	\$45,000.00	Yes
US Health Works	Medical Services	7/1/16 - 6/30/18	\$4,999.99	Yes

FINDING NO. 4 – Unions Were Not Notified In a Timely Manner of Personal Services Contract

Summary: The OIG did not notify state employee unions prior to entering into two of the four PSC's the CRU reviewed. Specifically, union notification was not received on the PSC's for R&R Automotive and US Healthworks.

Criteria: Government Code section 19132, subdivision (b)(1), mandates that "the contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted."

Severity: Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for work that their members could perform.

Cause: The OIG states there was insufficient internal review, a lack of available information, and no identifiable unions since there were no civil service classifications that performed the type of work to be contracted.

Action: It is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the work to be contracted prior to executing the PSC. It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the OIG submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132 and AB 906. Copies of any relevant documentation should be included with the plan.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months

of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), (c), & 19995.4, subd. (b).)

Additionally, the training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

Within 12 months of the initial appointment of an employee to a management or Career Executive Assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biannual basis. (*Ibid.*)

The Board may conduct reviews of any appointing power's personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the OIG's mandated training program that was in effect during the compliance review period. The OIG's basic supervisory training, sexual harassment prevention training, and ethics training were found to be in compliance.

FINDING NO. 5 – Mandated Training Complied with Statutory Requirements

The OIG provided ethics training to its one new filer within six months of appointment and semiannual ethics training to its 22 existing filers. The OIG also provided supervisory training to its five new supervisors within 12 months of appointment. In addition, the OIG provided sexual harassment prevention training to its three existing supervisors every two years. Thus, the OIG complied with mandated training requirements within statutory timelines.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR (Cal. Code Regs., tit. 2, § 599.666). Several salary rules dictate how departments calculate and determine an employee's salary rate⁶ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

During the period under review, June 1, 2017 through February 28, 2018, the OIG made 15 appointments. The CRU reviewed six of those appointments to determine if the OIG applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	List Appointment	Permanent	Full Time	\$4,928
Special Assistant Inspector General	List Appointment	Permanent	Full Time	\$11,965
Staff Services Analyst	List Appointment	Permanent	Full Time	\$4,097
Associate Deputy Inspector General	Transfer	Permanent	Full Time	\$5,990
Deputy Inspector General	Transfer	Permanent	Full Time	\$6,818
Staff Services Analyst	Transfer	Permanent	Full Time	\$3,465

⁶ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (CA CCR Section 599.666).

FINDING NO. 6 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the six salary determinations that were reviewed. The OIG appropriately calculated and keyed the salaries for each appointment and correctly determined employees’ anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges (Cal. Code Regs., tit. 2, § 599.681). However, in many instances, CalHR provides salary rules departments must use when employees move between alternate ranges. They are described in the alternate range criteria (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, March 1, 2017 through November 30, 2017, the OIG made three alternate range movements within a classification⁷. The CRU reviewed two of those alternate range movements to determine if the OIG applied salary regulations accurately and correctly processed employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Deputy Inspector General	B	C	Full-time	\$8,270.00
Deputy Inspector General	A	B	Full-time	\$6,878.00

FINDING NO. 7 – Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found that the both alternate range movements the OIG made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

⁷ 335 transactions.

Hiring Above Minimum Requests

Government Code section 19836 authorizes CalHR to allow payments above-the minimum rate in the salary range in order to hire persons who have extraordinary qualifications. On April 1, 2005, CalHR granted delegated authority to all departments to approve HAM's for extraordinary qualifications, former legislative employees, and former exempt employees (PML, "Delegation of Personnel Management Functions," 2005-012). On September 25, 2007, CalHR also granted delegated authority for all departments to approve exceptions to the HAM criteria for extraordinary qualifications for all new state employees without prior review or approval from CalHR. However, for existing state employees, departments should obtain approval from CalHR and delegated authority does not apply (PML, "Hiring Above Minimum Standards for Extraordinary Qualifications," 2010-005).

Prior to approving a HAM under delegated authority, departments should demonstrate and document the candidate's extraordinary qualifications. The candidate's extraordinary qualifications should contribute to the work of the department significantly beyond that which other applicants offer. The extraordinary qualifications should provide expertise in a particular area of the department's program well beyond the normal requirements of the class. The department may also consider the unique talent, ability or skill demonstrated by the candidate's previous job experience as extraordinary qualifications, but the scope and depth of such experience should be more significant than the length. The qualifications and hiring rates of state employees already in the same class should be carefully considered (CalHR Online Manual Section 1707). Additionally, departments must request and approve HAM's before a candidate accepts employment (*Ibid.*). In all cases, the candidate's current salary or other bona fide salary offers should be above the minimum rate, verified and appropriately documented.

During the period under review, March 1, 2017 through November 30, 2017, the OIG authorized one HAM requests. The CRU reviewed the authorized HAM request to determine if the OIG correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications and subsequent salaries, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Special Assistant Inspector General	List Appointment	Approved	\$9,782.00-\$12,563.00	\$11,965.00

FINDING NO. 8 – Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found that the HAM request the OIG made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages ten percent or more of the total time worked. According to the Pay Scales, specifically Pay Differential 14, the ten percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

Typically, the department must review the position Duty Statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, March 1, 2017 through November 30, 2017, the OIG issued Bilingual Pay to one employee. The CRU reviewed that bilingual pay authorization to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

Classification	Bargaining Unit	Time Base
Staff Services Manager I	S01	Full-time

FINDING NO. 9 – Bilingual Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found that the bilingual pay authorized to one employee during the compliance review period, satisfied civil service laws, Board rules, and CalHR policies and guidelines.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention (CalHR Classification and Pay Manual Section 230).

California State Civil Service Pay Scales (Pay Scales) Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, March 1, 2017 through November 30, 2017, the OIG issued pay differentials⁸ to 15 employees. The CRU reviewed eight of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Deputy Inspector General	108	\$130.00
Deputy Inspector General	165	\$775.68
Deputy Inspector General	165	\$775.68
Deputy Inspector General	165	\$775.68
Deputy Inspector General, Senior	108	\$130.00
Deputy Inspector General, Senior	165	\$832.16
Executive Assistant	52	\$351.44
Senior Assistant Inspector General	108	\$130.00

⁸ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

FINDING NO. 10 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the eight Pay Differentials that the OIG authorized during the compliance review period. Pay Differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments (OOC) and Pay

For excluded⁹ and most rank and file employees, out of class work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment (Cal. Code Regs., tit. 2, § 599.810).

According to CalHR’s Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and DPA Rule 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provision or DPA regulation. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires (Section 375).

During the period under review, March 1, 2017 through November 30, 2017, the OIG issued out-of-class pay¹⁰ to two employees. The CRU reviewed both of these out-of-class assignments to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Office Technician	R04	Staff Services Analyst	11/1/17- Current
Special Assistant Inspector General	E97	Senior Assistant Inspector General	7/31/17-9/8/17

⁹ “Excluded employee” means an employee as defined in section 3572(b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

¹⁰ Excluding bilingual and arduous pay.

FINDING NO. 11 – Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the two out of class pay assignments that the OIG authorized during the compliance review period. Out of Class pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

Administrative Time Off

Administrative Time Off (ATO) is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. Additionally, ATO may be granted when employees need time off for any of the following: donating blood, extreme weather that makes getting to work impossible, and/or, when employees need time off to attend special events. Any ATO requests lasting over 30 days must be submitted and approved by CalHR. Approval will generally be given in 30 calendar day increments and any extension must be approved prior to the expiration of the 30 calendar days. Departments must properly document and track ATO for any length of time (PML, “Administrative Time Off (ATO) – Policy, Procedure and Documentation Requirements”, 2012-008).

Employees may also be granted a paid leave of absence of up to five days by their appointing power when the employee works or resides in a county where a state of emergency has been proclaimed by the Governor (§ 599.785.5, Administrative Time Off - During State of Emergency).

During the period under review, November 1, 2016 through November 20, 2017, the OIG placed three employees on ATO. The CRU reviewed all of these ATO appointments to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	No. of Days on ATO
Nurse Consultant Program Review	11/14/2016 - 12/5/2016	21 days
Registered Nurse, Correctional Facility	3/15/2017 - 4/14/2017	30 days

Classification	Time Frame	No. of Days on ATO
Registered Nurse, Correctional Facility	4/21/2017 - 4/27/2017	6 days

FINDING NO. 12 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in the four employees placed on ATO during the compliance review period. The OIG provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction (Cal. Code Regs., tit. 2, § 599.665).

Additionally, in accordance with CalHR Online Manual Section 2101, departments must create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. Attendance records shall be corrected by the pay period following the pay period in which the error occurred. Accurate and timely attendance reporting is required of all departments and is subject to audit.

During the period under review, September 1, 2017 through November 30, 2017, the pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
September 2017	001	29	29	0
September 2017	004	17	17	0
October 2017	003	16	16	0

FINDING NO. 13 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU reviewed employee leave records from two different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The OIG kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

Leave Reduction Efforts

Departments must comply with the regulations and CalHR policies that require a leave plan for every employee with vacation or annual leave hours over the maximum amount permitted (Cal. Code Regs., tit. 2, § 599.742.1 and applicable Bargaining Unit Agreements). Bargaining Unit Agreements and California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. For instance, according to California Code of Regulations, title 2, section 599.737, if a represented employee does not use all of the vacation to which he or she is entitled in a calendar year, “the employee may accumulate the unused portion, provided that on January 1st of a calendar year, the employee shall not have more than” the established limit as stipulated by the applicable bargaining unit agreement¹¹. Likewise, if an excluded employee does not use all of the vacation to which he or she is entitled in a calendar year, the “employee may accumulate the unused portion of vacation credit, provided that on January 1st of a calendar year, the excluded employee shall not have more than 80 vacation days.” (Cal. Code Regs., tit. 2, § 599.738.)

In accordance with CalHR Online Manual Section 2124, departments must create a leave reduction policy for their organization and monitor employees’ leave to ensure compliance with the departmental leave policy; and ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place.

As of December 2017, ten OIG employees exceeded the established limits of vacation or annual leave. The CRU reviewed all of those employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

¹¹ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and bargaining unit 5 the established limit is 816 hours.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Chief Assistant Inspector General	E99	3	Yes
Deputy Inspector General	E97	31.5	Yes
Deputy Inspector General	E97	102	Yes
Deputy Inspector General	E97	1211.25	Yes
Information Technology Manager	M01	146.5	Yes
Nurse Consultant Program Review	S17	37	Yes
Nurse Consultant Program Review	S17	38.5	Yes
Physician & Surgeon	R16	344	Yes
Registered Nurse	R17	116	Yes
Registered Nurse	R17	423.5	Yes
Total		2,453.25	

FINDING NO. 14 – Leave Reduction Plans Complied with Civil Service Laws Board Rules, and/or CalHR Policies and Guidelines

The CRU determined that the OIG’s leave reduction efforts complied with applicable laws, regulations and CalHR policy guidelines. The CRU found no deficiencies in this area.

State Service

An employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service¹² (Cal. Code Regs., tit. 2, § 599.608).

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service (Cal. Code Regs., tit. 2, § 599.609).

¹² Except as provided in sections 599.609 and 599.776.1(b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

For each additional qualifying monthly pay period as defined in section 599.608, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated (Cal. Code Regs., tit. 2, § 599.739). On the first day following a qualifying monthly pay period, excluded employees¹³ shall be allowed credit for annual leave with pay (Cal. Code Regs., tit. 2, § 599.752).

Permanent intermittent employees also earn leave credits on the pay period following the accumulated accrual of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period are not counted or accumulated towards leave credits.”

During the period under review, March 1, 2017 through November 30, 2017, the OIG had one employee with a 715 transaction¹⁴. The CRU reviewed the 715 transaction to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which is listed below:

Type of 715 Transaction	Time base	Number Reviewed
715V	Full-time	1

FINDING NO. 15 – 715 Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU determined that the OIG ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

¹³ As identified in Government Code sections 19858.3(a), 19858.3(b), or 19858.3(c) as it applies to employees excluded from the definition of state employee under section Government Code 3513(c), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

¹⁴ 715 transaction code is used for: temporary leaves of 30 calendar days or less (per SPB Rule 361) resulting in a non-qualifying pay period; used for qualifying a pay period while on NDI; used for qualifying a pay period while employee is on dock and furlough.

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. In addition, there may be personal relationships beyond this general definition that could be subject to these policies. Overall, departmental nepotism policies should aim to prevent favoritism or bias based on a personal relationship when recruiting, hiring or assigning employees. Departments have the discretion, based on organizational structure and size, to develop nepotism policies as they see fit (CalHR Online Manual Section 1204).

FINDING NO. 16 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

After reviewing the OIG's nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the OIG's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the OIG's nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions as outlined in CalHR's Online Manual Section 1204.

Workers' Compensation

Pursuant to California Code of Regulations, title 8, section 9880, employers shall provide to every new employee at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under Workers' Compensation Law. This notice shall also contain a form that the employee can use to pre-designate their personal physician or medical group as defined by Labor Code section 4600. Additionally, employers shall also provide a claim form and notice of potential eligibility to their employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness (Labor Code, § 5401).

According to Labor Code section 3363.5, public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. Workers' compensation coverage is not mandatory for volunteers as it is for employees. This is specific to the legally uninsured state departments participating in the Master Agreement. Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (SCIF) office to discuss the status of volunteers (PML, "Workers' Compensation Coverage for Volunteers," 2015-009). Those departments that have volunteers should have notified or updated their existing notification to the SCIF by April 1, 2015, whether or not they have decided to extend workers' compensation coverage to volunteers.

In this case, the OIG did not employ any volunteers during the compliance review period.

FINDING NO. 17 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

After reviewing the OIG's workers' compensation process that was in effect during the compliance review period, the CRU verified that when the OIG provides notice to their employees to inform them of their rights and responsibilities under CA Workers' Compensation Law. Furthermore, the CRU verified that when the OIG received worker's compensation claims, the CRU properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, departments must "prepare performance reports." Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee's probationary period.

The CRU selected 30 permanent OIG employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines. The OIG did not complete six out of the 30 performance appraisals selected. These are listed below:

Classification	Date Performance Appraisals Due
Deputy Inspector General	December 2017

Classification	Date Performance Appraisals Due
Executive Assistant	March 2017
Senior Legal Analyst	April 2017
Senior Personnel Specialist	October 2017
Special Assistant Inspector General	September 2017
Staff Services Manager I	January 2017

In reviewing the OIG’s performance appraisals policies and processes, the CRU determined the following:

FINDING NO. 18 – Performance Appraisals Were Not Provided to All Employees

Summary: The OIG did not provide performance appraisals to six of the 30 employees reviewed at least once in each twelve calendar months after the completion of the employee’s probationary period.

Criteria: Departments are required to “prepare performance reports and keep them on file as prescribed by department rule” (Gov. Code § 19992.2). Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

Severity: Serious. The department does not ensure that all of its employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The OIG states there was insufficient internal review and a lack of accountability of managers and supervisors.

Action: It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the OIG submit to the SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of

Regulations, title 2, section 599.798. Copies of any relevant documentation should be included with the plan

DEPARTMENTAL RESPONSE

The OIG's response is attached as Attachment 1.

SPB REPLY

Based upon the OIG's written response, the OIG will comply with the CRU recommendations and findings and provide the CRU with an action plan.

It is further recommended that the OIG comply with the afore-stated recommendations within 60 days of the Executive Officer's approval and submit to the CRU a written report of compliance.

January 16, 2019

Regional OfficesSacramento
Bakersfield
Rancho CucamongaSuzanne M. Ambrose
Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814Re: *OIG Response to SPB Compliance Review Report*

Dear Ms. Ambrose:

As the Office of the Inspector General (OIG) was determined to be in compliance with the majority of the personnel policies and practices reviewed by the State Personnel Board's Compliance Review Unit, no further response is offered with respect to those findings. However, the following response is offered with respect to the deficiencies noted.

*Finding No. 4: Unions Were Not Notified in a Timely Manner of Personal Services Contract*Cause: Insufficient Internal Review and Lack of Available Information

OIG Response: The OIG acknowledges the state's mandate that necessary services be performed by state employees whenever possible, and that organizations that represent state employees be notified whenever a personal services contract is proposed to be awarded to a non-state entity. The difficulty lies in determining if a union has members who perform the type of work to be contracted so that notice can be given. For example, state law requires that OIG employees who enter correctional institutions be tested annually for tuberculosis. The state employs medical personnel in a number of different departments or agencies, many of whom are represented by several different unions. However, there is no central data base or information source to access or consult to determine whether the service to be contracted (TB testing in this instance) is offered by represented state employees. The OIG maintains there is no reason to notice a union if there is no civil service classification that performs the type of work to be contracted. However, the OIG will strive to identify and notice the appropriate union whenever it becomes necessary to contract for personal services and will seek assistance from CalHR to identify the appropriate union if it is unclear. In the meantime, the OIG recommends that either the SPB or CalHR develop a process to assist state departments and agencies comply with this state mandate.



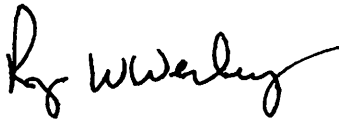
Finding 18: Performance Appraisals Were Not Provided to All Employees

Cause: Insufficient Internal Review and Lack of Accountability of Managers and Supervisors

OIG Response: The OIG agrees all employees should receive regular performance appraisals, not only to identify and improve performance deficiencies but also to recognize and acknowledge satisfactory performance. In addition to notifying the direct supervisor of due dates for performance appraisals, the Human Resources Unit will report delinquencies to executive staff biannually to ensure that all managers and supervisors are held accountable for providing timely performance evaluations.

As an oversight agency, the OIG takes the reported deficiencies very seriously as we wish to comply with all merit-related laws, rules, regulations, policies and procedures. We appreciate your guidance and will strive to improve our performance.

Very truly yours,



ROY W. WESLEY
Inspector General

cc: Antoinette Lobo
Chief of Administration (A)